

§ 25.51

27 CFR Ch. I (4–1–03 Edition)

established by testing may not exceed ± 0.5 percent. If a meter test discloses an error in excess of the allowable variation, the brewer shall immediately adjust or repair the meter. Adjustments will reduce the error to as near zero as practicable.

(c) *Authority to require tests.* If the appropriate ATF officer has reason to believe that the accuracy or reliability of a measuring device is not being properly maintained, he or she may require the brewer to test the measuring device and, if necessary, adjust or repair the measuring device.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

Subpart F—Miscellaneous Provisions

§ 25.51 Right of Entry and Examination.

An appropriate ATF officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate ATF officers may make inspections as the appropriate ATF officer deems necessary to determine that operations are conducted in compliance with the law and this part. The owner of any building or place where beer is produced, made, or kept, or person having charge over such premises, who refuses to admit an appropriate ATF officer acting under 26 U.S.C. 7606, or who refuses to permit an appropriate ATF officer to examine beer must, for each refusal, forfeit \$500.

[T.D. ATF-437, 66 FR 5478, Jan. 19, 2001]

§ 25.52 Variations from requirements.

(a) *Exceptions to construction, equipment and methods of operations* (1) *General.* The appropriate ATF officer may approve details of construction, equipment or methods of operations, in lieu of those specified in this part. The brewer shall show that it is impracticable to conform to the prescribed specification, and that the proposed variance:

(i) Will afford the protection to the revenue intended by the specifications in this part;

(ii) Will not hinder the effective administration of this part, and

(iii) Is not contrary to any provision of law.

(2) *Application.* A brewer who proposes to employ methods of operations or construction or equipment other than as provided in this part shall submit an application to the appropriate ATF officer. The application will describe the proposed variation and state the need for it. The brewer shall submit drawings or photographs if necessary to describe the proposed variation.

(3) *Approval by appropriate ATF officer.* The appropriate ATF officer may approve the use of an alternate method or procedure if:

(i) The brewer shows good cause for its use;

(ii) It is consistent with the purpose and effect of the procedure prescribed by this part and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(4) *Exceptions.* The appropriate ATF officer may not authorize an alternate method or procedure relating to the giving of any bond, or to the assessment, payment, or collection of tax.

(5) *Conditions of approval.* A brewer may not employ an alternate method or procedure until the appropriate ATF officer has approved its use. The brewer shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) *Emergency variations from requirements*—(1) *Application.* When an emergency exists, a brewer may apply to the appropriate ATF officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The brewer shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval.* The appropriate ATF officer may approve an emergency variation from requirements if:

(i) An emergency exists;

(ii) The variation from the requirements is necessary;